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INTRODUCTION

FiveCAP, Inc. entered into contracts #MAST-04-53011, TANFE-05-53011, TANF-05-53011, TANF-06-53011, CSBG-05-53011, CSBG-06-53011, CSBGD-02-53011, CSBGT-05-53011, CSBGT-06-53011, LCA-05-53011, LCA-06-53011, LIHEAP-04-53011, LIHEAP-05-53011, LIHEAP-06-53011, DOE-04-53011, DOE-05-53011, DOE-06-53011, MPSCC-05-53011, MPSCW-05-53011, and MPSC-06-53011 with the Department of Human Services (DHS). Through these contracts FiveCAP was to provide weatherization services, energy assistance, income tax return preparation, purchase washers and dryers for TANF eligible clients, and educate clients on the earned income tax credit. The contracts covered the period April 1, 2004 through September 30, 2007 and totaled \$2,746,412 (See Schedule A). FiveCAP, Inc. was reimbursed for actual costs incurred in providing these services, through submission of monthly billings to DHS.

SCOPE

The Office of Internal Audit performed an audit of FiveCAP, Inc. for the period October 1, 2004 through June 30, 2006. Based on our findings for this period related to overbilled legal costs, we expanded our audit period for legal costs only to also include July 2002 through September 2004. The purpose of our audit was to determine if their billings were accurate, and if the costs charged were allowable per the terms of the contract and properly supported by the accounting records, case file records, and other supporting documentation.

EXECUTIVE SUMMARY

Based on our audit, we concluded that FiveCAP, Inc. maintained proper accounting records and their billings were accurate, with a few exceptions. They billed DHS for unallowable legal costs under the CSBG contract. FiveCAP, Inc. did not have adequate

documentation that costs were properly allocated to programs and activities. Their journal entries did not have supporting documentation attached to support the allocation of costs associated with each program. In addition, FiveCAP, Inc. billed unallowable costs to the CSBG and LCA contracts. The total amount overbilled was \$18,599.29.

Our report recommends that the Bureau of Community Action and Economic Opportunity (BCAEO) ensure that FiveCAP, Inc. implements proper time keeping and allocation procedures for costs shared by multiple programs. Our report also recommends that BCAEO initiate the process to recoup the \$18,599.29 (\$225.37 + \$16,254.90 + \$2119.02) and ensure that FiveCAP, Inc. recovered the \$1,046.36 that they overpaid to deliverable fuel providers in FY 2006, and used it for fuel deliveries for eligible clients.

AGENCY RESPONSE

FiveCAP, Inc. has reviewed all findings and recommendations included in this report. They responded in a letter dated February 9, 2007. Their responses are provided in their entirety following each finding and recommendation.

FINDINGS AND RECOMMENDATIONS

All Contracts

Salaries Expense

1. FiveCAP, Inc. did not properly document employees' time and activity. Federal Office of Management and Budget (OMB) Circular A-122, *Cost Principles for Non-Profit Organizations*, states in part "Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professional and non-professional) whose compensation is charged, in whole or in part, directly to awards....The reports must reflect an *after the fact* determination of the actual

activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards. Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.”

FiveCAP, Inc. informed us that they billed salaries based on pre-set allocations that were based on employees’ positions and the salary budget for each contract for fiscal year 2005.

FiveCAP, Inc. had adequate documentation that their employees performed the services required by the contract, and the amounts charged for each employee appeared reasonable, therefore we are not recommending recoupment of any amounts billed for salaries.

WE RECOMMEND that BCAEO, monitor to ensure that FiveCAP, Inc. maintains appropriate timekeeping and salary allocation procedures to comply with OMB Circular A-122.

Corrective Action: As of August 24, 2006, the employees were keeping time records which indicate the time, activity and program type. The salaries and fringes were being billed accordingly.

FiveCAP Response: FiveCAP, Inc. concurs and continues to follow the corrective action taken.

Journal Entry Documentation

2. FiveCAP, Inc. did not properly support adjusting journal entries. In many cases, the journal entries did not explain why corrections or reallocations needed to be made, and did not include a reference to the original voucher, time sheet, or check number so costs could be traced back to the original invoice and entry into the accounting system.

OMB Circular A-122, Attachment A, 2.g. requires that costs be adequately documented to be allowable.

WE RECOMMEND that BCAEO monitor to ensure that FiveCAP, Inc. maintains adequate documentation to support their journal entries.

FiveCAP Response: FiveCAP, Inc. concurs and continues to follow the corrective action taken.

Allocation of Shared Costs

3. FiveCAP, Inc. did not properly support the allocation of shared costs, such as postage, copying, and phone charges. The journal entries did not provide the basis for the amounts charged to each of the programs, nor was supporting documentation attached to the journal entry to explain the amount charged to each of the programs.

OMB Circular A-122, Attachment A, 2.g. requires that costs be adequately documented to be allowable.

WE RECOMMEND the BCAEO monitor to ensure that FiveCAP, Inc. properly supports the expenditures that are recorded in the general ledger.

FiveCAP Response: FiveCAP, Inc. concurs and continues to follow the corrective action taken.

LCA-05-53011

Overbilling for Fuel Deliveries

4. FiveCAP, Inc. overbilled DHS \$225.37 for Specific Assistance because the invoices documenting 2 payments for deliverable fuel were less than the amount paid by FiveCAP, Inc. and billed to DHS. One invoice was \$209.72 less than the amount paid and one was \$15.65 less than the amount paid.

WE RECOMMEND that BCAEO initiate the process to recoup \$225.37 from FiveCAP.

FiveCAP Response: Unregulated deliverable fuel Vendors have a variety of conditions that they impose as a condition of services to clients. One is payment for a pre-approved amount prior to delivery. FiveCAP, Inc. has a procedure in place to correct the difference in the amount paid to obtain a delivery and the cost of the actual delivery. The Vendor sends a copy of the receipt showing cost of actual amount delivered to FiveCAP. This is compared to the amount ordered. A follow up is then made with the Vendor and all over payments are refunded and reprogrammed.

A check in the amount of \$225.37 to correct over billing in prior year has already been sent to MDHS.

LCA-06-53011

Prepaid Fuel Deliveries

5. FiveCAP, Inc. billed DHS \$1,046.36 for Specific Assistance for fuel deliveries where the actual cost of the delivery was less than the amount FiveCAP, Inc. prepaid for the delivery. The invoices were less by \$110.75, \$79.29, and \$129.64 for 3 of those accounts. The other 2 were less by \$315.34 and \$411.34. For these 2 accounts the fuel provider made a delivery to the client's home and found that they were not in need of fuel, so the provider dispensed the small amount of fuel necessary to fill the tank, and retained the remaining funds and established a credit balance for the client. Section IIA of the contract states that a demonstration of need must be documented each time deliverable fuel assistance is provided.

WE RECOMMEND that BCAEO ensure that FiveCAP, Inc. recovers the excess funds of \$1,046.36 from the fuel providers, and either uses the funds for fuel deliveries for other eligible clients or returns the funds to DHS.

FiveCAP Response: This was for a current grant that did not end until September 30, 2006. FiveCAP, Inc. did in fact recoup the over billed amounts from the fuel vendors and reallocated those funds to additional eligible clients during the grant period.

CSBG-05-53011

Legal Fees

6. FiveCAP, Inc. overbilled DHS \$16,254.90 for attorney fees. They billed DHS \$2,787.02 for legal fees related to a lawsuit brought by the Equal Employment Opportunity Commission in 2005. FiveCAP settled this case. According to Federal Office of Management and Budget Circular A-122, legal costs are not allowable

when a case is settled. In addition they billed \$525.35 in legal costs related to unfair labor practices and back pay determination during the period 10/1/2004 through 9/30/2005. These costs are also unallowable per Circular A-122. According to FiveCAP's records they also billed \$13,691.69 in legal costs for the period July 1, 2002 through September 30, 2004. Legal costs were not included as an allowable cost per the terms of their FY 2004 or FY 2003 contract budgets, but were included in the FY 2002 contract budget. For, FY 2002 the allowable amount of legal fees was \$749.16. Therefore, unallowable legal expenses billed for the period July 1, 2002 through September 30, 2004 was \$12,942.53 (\$13,691.69 - \$749.16)

FiveCAP, Inc. was previously audited by federal auditors for the Head Start Program. It appears that the auditors included a significant portion of the amount billed to CSBG in their calculation of allowable and unallowable legal costs for the Head Start Program. However, these costs were billed to CSBG and are unallowable under the CSBG Program.

WE RECOMMEND that BCAEO initiate the process to recoup the \$16,254.90 in unallowable legal fees.

FiveCAP, Inc. Response: While legal fees were not specifically mentioned in the 2003 and 2004 budgets, provision for legal fees was made under contracted services. Legal services are part of contracted services. Since the fees were necessary, reasonable and allowable they should not be disallowed.

With respect to \$13,691.69, \$2,787.02 and \$525.35 (in relation to EEOC unfair labor practices) both DHHS and MDHS are disallowing the same expenses and requesting repayment. This is double jeopardy to the Agency. If MDHS claims these same

legal costs to be disallowed and files to reclaim them, then the agency is being charged twice for the same disallowed expenditures. All claims by both HHS and DHS have been submitted to the bankruptcy court under Chapter 11. MDHS has opposed FiveCAP's Chapter 11 Plan claiming that it would harm the State of Michigan.

For the record FiveCAP, Inc. would like it noted that MDHS treated another agency differently relative to disallowed costs exceeding \$97,000. In fact MDHS paid the \$78,000 federal funds the agency owed to DHHS due October 2006 and allowed the agency a five-year repayment plan. MDHS provided no such special treatment to this Community Action Agency.

Vehicle Insurance

7. FiveCAP, Inc. overbilled DHS \$1,571.89 for local transportation for vehicle insurance that was not an allowable cost under the contract budget.

FiveCAP, Inc. Response: While FiveCAP, Inc. did not specifically name vehicle insurance as part of the budget plan, it did make provision in the budget for transportation costs. Since the charge for insurance is necessary, reasonable and allowable it should not be a disallowed cost.

Cable TV

8. FiveCAP, Inc. overbilled DHS \$547.13 for Communication because they billed for cable TV that was not an allowable cost under the contract budget.

WE RECOMMEND that BCAEO initiate the process to recoup \$2,119.02 (\$1,571.89 + \$547.13) from FiveCAP, Inc. for unallowable vehicle insurance and cable TV.

FiveCAP, Inc. Response: FiveCAP did not specifically name Cable TV in the budget, but it did make provision for communication expense. The cable service was added to the training monitors after 9.11. The service is necessary, reasonable and allowable and it should not be considered a disallowed cost. The agency serves four rural counties and operates twelve (12) facilities housing children and staff covering 2,448 square miles. Therefore, weather and road conditions must be monitored. The Internet is not universally available, nor is it reliable. The State Police no longer offers this service. Cable television is the most reliable source for weather emergencies, warning reports and public safety announcements over the total area that FiveCAP serves. Further, it appears that the disallowance is based on the lack of the specific identification of cable under utilities in the budget. We do not agree that this is a reason to disallow a cost.

SCHEDULE A
FiveCAP, Inc.
Schedule of Audited Contracts

Contract Name	Fiscal Year	Amount
MAST-04-53001	2005	\$0.00
TANFE-05-53011	2005	\$12,750.00
TANF-05-53011	2005	\$33,112.00
TANF-06-53011	2006	\$33,112.00
CSBG-05-53011	2005	\$532,556.00
CSBG-06-53011	2006	\$467,267.00
CSBGD-02-53011	2005	\$10,000.00
CSBGT-05-53011	2005	\$10,000.00
CSBGT-06-53011	2006	\$15,000.00
LCA-05-53011	2005	\$112,484.00
LCA-06-53011	2006	\$112,484.00
LIHEAP-04-53011	2005	\$171,700.00
LIHEAP-05-53011	2005	\$76,200.00
LIHEAP-06-53011	2006	\$60,600.00
DOE-04-53011	2005	\$269,990.00
DOE-05-53011	2005	\$323,599.00
DOE-06-53011	2006	\$325,125.00
MPSCC-05-53011	2005	\$26,989.00
MPSCW-05-53011	2005	\$63,857.00
MPSC-06-53011	2006	\$89,587.00
Total Contracts		\$2,746,412.00